



## Arizona State Board of Education

### Memorandum

**To:** District Superintendents  
**From:** Vince Yanez, Executive Director  
**Date:** July 8, 2013  
**Re:** Fingerprint Clearance Cards vs. Fingerprint Background Checks for Specific Personnel

The State Board has become aware that some school districts are **attempting to require fingerprint clearance cards (FCC) for certain personnel who, under state law, are not authorized to receive FCCs and who should instead be required to obtain a fingerprint criminal background check.**

The law only permits FCCs to be issued to: 1) certified teachers and administrators; 2) participants of teacher preparation programs; and 3) contractors, subcontractors or vendors with independent access or unsupervised contact with pupils. **Districts are not permitted under the law to require other personnel to obtain a FCC as a condition of employment.**

Under the law, and depending on the employment status of a person, other employees are required, or may be subject at the districts discretion, to a fingerprint criminal background check.

This memo is intended to highlight specific elements of statutes related to FCCs and fingerprint criminal background checks and is not intended to be an exhaustive analysis of the law.

### Fingerprint Clearance Cards

**What kind of information is provided by a fingerprint clearance card required under A.R.S. §15-534 and issued by the Department of Public Safety Fingerprint Division pursuant to A.R.S. Title 41, Chapter 12, Article 3.1?**

Fingerprints obtained for a FCC are initially used to obtain both a state and federal criminal records check. A person will be issued a FCC if the person's criminal history record does not contain any of the offenses listed in §41-1758.03(B) and (C), or if the applicant is granted a good cause exception.

Periodic state criminal history records checks are completed to update the clearance status of current FCC holders and the Fingerprint Division of the Department of Public Safety may notify the Board of Fingerprinting and the agency employing the person of the results of the records check.

A FCC is suspended if a person becomes subject to registration as a sex offender or the person is arrested for an offense listed in section §41-1758.03(B) and (C). A FCC card will be subsequently revoked if the person is convicted of an offense listed in §41-1758.03(B). A person who has a FCC card suspended because the person was arrested for an offense listed in §41-1758.03(C) may request a good cause exception hearing pursuant to section §41-619.55.

Simply stated, a valid FCC provides an assurance that the person has not been arrested for or convicted of a specific list of criminal offenses listed in statute, unless the person has been granted a good cause exception allowed under the law.

**Who may be fingerprinted and required to obtain a fingerprint clearance card?**

§15-534(A) requires anyone applying for a teaching certificate pursuant to §15-203 to have a valid FCC.

Applicants who currently hold a valid teaching certificate under §15-203 and who apply for additional certificates or for renewal of any certificate shall:

- 1) Have a valid FCC; or
- 2) Provide proof of the submission of an application for a FCC. Applicants who have been denied a FCC shall also provide proof that the applicant qualifies for a good cause exception hearing pursuant to section §41-619.55.

All certified persons are required to maintain a valid FCC during the valid period of the person's certificate or certificates. §15-534(B).

Any person who participates in a State Board approved teacher preparation program or any person who is contracted by this state, by a school district or by a charter school to provide tutoring services is required to obtain a FCC before the person participates in field experience in which services will be provided directly to pupils. A person who participates in a State Board approved teacher preparation program and who does not participate in field experience or student teaching in the state is not required to obtain a FCC. §15-534(G).

Before employment, schools or school districts are required to verify the certification and FCC status of applicants who apply for school or school district positions that require certification. §15-534(F).

Contractors, subcontractors or vendors or any employee of a contractor, subcontractor or vendor who are contracted to provide services on a regular basis at an individual school shall obtain a valid FCC. School district governing boards are required to have policies that may exempt persons who, as part of their normal job duties, are not likely to have independent access to or unsupervised contact with pupils. §15-512(H).

**Who is required to pay for the fingerprint clearance card under §15-534?**

The applicant is responsible for paying for the cost of a FCC.

## **Fingerprint Criminal Background Checks**

### **What kind of information is provided by the fingerprint check required under §15-512?**

Fingerprints submitted pursuant to §15-512 are used to conduct a state and federal criminal records check pursuant to §41-1750 and Public Law 92-544. The fingerprint criminal background check does not provide on-going reports of any person's criminal activity after the check is complete.

The fingerprint criminal background check provides a criminal history that is to be used by the district as part of its employment decisions. School districts may refuse to hire or may review or terminate personnel who have been convicted of or admitted to committing any of the offenses listed in §15-512(D) or a similar offense in another jurisdiction. §15-512(E). The statute includes specific provisions regarding the termination of such individuals.

### **Who may be fingerprinted under §15-512?**

Noncertified personnel and unpaid personnel (other than a parent or guardian of a student in the district) "who are required or allowed to provide services directly to pupils without supervision of a certificated employee" are required to be fingerprinted for the purpose of a criminal background check as a condition of service. §15-512(A).

"A school district may fingerprint any other employee of the district, whether paid or not, or any other applicant for employment with the school district not otherwise required by this section to be fingerprinted...." §15-512(G).

Exemptions from this statute include personnel who 1) were previously employed by the district and reestablish employment with the same district within a year (§15-512(A)); 2) are required to hold a specific license for employment which already requires fingerprinting (§15-512(A)); or 3) persons who "provide instruction or other education services to a pupil, with the written consent of the parent or guardian of the pupil, under a work release program, advance placement course or other education program that occurs off school property" (§15-512(I)); or 4) "pupils who attend school in a school district and who are also employed by a school district" (§15-512(M)).

§15-512(H) requires specific contractors to obtain a FCC (not a fingerprint criminal background check) as described previously.

### **Who is required to pay for the fingerprint check under §15-512?**

School districts are required to assume the costs of these fingerprint criminal background checks, but may charge the costs to its fingerprinted employee. However, school districts may not charge the costs of the fingerprint criminal background check to personnel of the school district who are unpaid employees (§15-512(C)) or to personnel which the district chooses to fingerprint who are not required to be fingerprinted under the statute (§15-512(G)).